

though there is progress to report, it is not enough progress.

Another item of progress that should be noted is that students took more of the challenging advanced placement tests in basic academic subjects—in English and math and science and history. That also is good news.

We also are able to report that, among adults, more adults took adult education classes throughout this country in 1992. A significantly larger number took adult education classes than they did in 1990. Again, that is good information and good news.

The bad news, unfortunately, is in the report as well. That is what the report's purpose is. It is to point out where we are making progress and where we are not. Unfortunately, high school graduation rates have remained at about 86 percent. That is not a change. That is not improvement. We need to make improvement in that area.

Reading achievement at grades 4 and 8 have remained about the same. Again, that is not good news.

There is a large gap that continues, between minority and white students as far as college enrollment and completion of college. Again, that large gap is not good news.

In my home State of New Mexico, as I indicated, we have not done as well as the national average in some important respects, particularly in the math criteria, but also in the reading. I think other States can also learn from this data that was released today, where they need to make progress.

The bottom line is that the work of improving educational performance in this country needs to continue. We are part way through the 10 years. We are not all the way. We have a great distance to go.

I would point out one important fact. That is, the greatest progress that is shown in all of this data is in the area of math achievement, and that is the only area where we have general agreement on the standards that we are striving to achieve. The credit for that goes to the National Council of Teachers of Mathematics. They came up with their own set of standards, which they have promulgated throughout the country and urged math teachers to adopt. Many teachers have. Many school districts have. Many States have. And I think progress in math performance is improving. Performance in math is improving to a significant extent because we have focused on that area and we have concentrated on how to, in fact, define what we want to accomplish and go about accomplishing it.

So I wanted to make the point that this effort continues. It is a bipartisan effort. I think it is a very important effort.

I know we get caught up in all kinds of political battles here in the Congress. In my opinion, this is one subject and one issue that ought to be above politics. Both Democrats and Re-

publicans should, I believe, renew our commitment to improving education in this country. I think the Congress has a role in that, which of course we have debated. The States have the primary responsibility. I do not think anybody would argue with that. Of course, local school districts, local schools, teachers, principals, parents and students have the ultimate responsibility.

I appreciate the chance to bring these issues to the attention of my colleagues and I yield the floor.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. KERREY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

#### MAKING FURTHER CONTINUING APPROPRIATIONS FOR THE FISCAL YEAR 1996

The Senate continued with the consideration of the joint resolution.

Mr. KERREY. Mr. President, I ask the Chair, are we now on the continuing resolution?

The PRESIDING OFFICER. That is correct.

Mr. KERREY. Mr. President, there is a provision in this continuing resolution—indeed, there are many provisions in it. But there is one in particular that deals with lobbying.

Just on the face of it—I know other Senators are concerned about it; I know the Senator from Colorado was prepared to move to strike this provision—I believe it should be stricken.

Let me make, first and foremost, this point about the appropriateness of having lobbying reform on the continuing resolution. I just think it is totally inappropriate. This Congress cannot function with 70 Members of the House basically writing a letter threatening that they are not going to support the continuing resolution if it does not contain this provision.

I have an interest in impact aid. I have an interest in things relating to agriculture—things that are not likely to pass this year. I suspect that I could probably round up 15 or 20 people or so who would say, send a letter to Leader DOLE and Leader DASCHLE saying that, if this is not included, we are not going to vote for it.

I know these new Members of the Congress get quite enthusiastic about saying they have a mandate to do everything that comes to mind. But this lobbying reform provision was not in the Contract With America. It is not in any contract that I have seen. I appreciate their enthusiasm for change. But this provision—a lobbying provision changing our lobbying laws—does not belong on this bill. Indeed, I find it rather odd that the House has not taken up the lobbying reform legisla-

tion that this body has addressed already. We debated it as a freestanding bill. Those who are enthusiastic about lobbying reform did not just write a letter insisting that lobbying reform provisions be included in the continuing resolution.

I see with regret that the Speaker, the majority leader, and the President are now at loggerheads saying maybe the Government is going to be shut down on Tuesday because we cannot get a continuing resolution passed. It is tough to pass a continuing resolution, even one that is clean, even one that has some provisions that connect to the budget. I can stretch and understand that.

But when we have provisions relating to lobbying, I just think we have to take a stand on this side and say to the House that we passed lobbying reform on this side. We brought it up on the calendar. We had a lengthy debate about it. We changed the law. We propose to change the law relating to lobbying. The House should take it up over there; take up lobbying reform. If you want to add this amendment to lobbying reform legislation, do so.

I think it is a bad change. I would like to have the opportunity—if they pass that over there, go to conference on the bill and it comes back over in that fashion, I would argue against it.

But I think that Republicans and Democrats here, if this body is going to function, are going to have to take a stand against 60 are 70 Members of the House who are constantly saying, "Do it our way or we are going to shut the place down."

Mr. President, we all understand, for example, the rules of the Senate allow us to come down and expel large volumes of air and tie things up with repeated debate. With all kinds of conversation, we could slow this thing down, shut it down, and get nothing done, if that is what we choose to do.

I think the Senate, in this particular case, needs to take a stand. I know the Senator from Wyoming, in fact, feels strongly about this. When we took up the Treasury-Postal appropriations bill, I joined with him and allowed an amendment to be accepted. But in the Treasury-Postal conference, again we find ourselves faced with a threat. We find ourselves faced with a single individual who says in the conference committee, "I do not care what happens to Treasury-Postal. I do not mind shutting the Government down. I insist that I get this provision accepted and changed into law."

Mr. President, again, I do not mind sitting down here and fighting the battle over something important. But nobody is calling me from home proposing this thing. This does not come from the grassroots. This came from a couple of people who had an idea that somehow we are increasingly calling upon 501(c)(3) organizations to help us. But I suspect every Member of this body has gotten up and talked about the kind of partnerships that we need

to make our Government more efficient and effective, and we have called upon nongovernment organizations to participate in the process.

What are we doing here with this language? We are saying essentially that we are going to regulate you? After we have asked you to help, after we have said to the Red Cross, "We would like to have you help us with disaster programs," after we say to the YMCA and the YWCA, "We would like to have you help us with our violence against families efforts at the local level with the State taxpayer money," then we say, "Oh, by the way, do you make any effort to influence Congress? If you do, we are going to restrict you."

That is what Mr. ISTOOK and Mr. MCINTOSH are saying. They are unwilling to pass lobbying reform over in the House and restrict the real lobbyists that hang out here all day long. They will go after the 501(c)(3)'s because in some cases they do not like the agenda. If push comes to shove in the House, they will make an exception. We will exempt out veterans organizations. As I understand it, there may be an attempt over here to say let us take care of the Catholic Church and exempt them as well.

I say to Mr. ISTOOK and Mr. MCINTOSH that, if your principle is sound, if you really believe your own words, that we are subsidizing lobbyists, we are not. And, by the way, this legislation addresses private money, not public money. This legislation put in place extensive regulation. 501(c)(3)'s would have to prove they are in compliance. Speaker after speaker last night went down and said there are lots of organizations that are not affected. We exempted them all. Take care what you vote for around here because you may find yourself creating a problem that you did not realize you were going to create, and that is precisely what would happen with the House language.

With the House language, you may say you are exempting these organizations, but they have to prove they are in compliance. They have to show the Federal Government that they are doing the right thing. We are now saying to these organizations that we have asked to help that now you have to prove you are in compliance, and you have to keep your records for 5 years.

Again, this particular amendment is offered by individuals who repeatedly go to the floor and talk about excessive regulation and the need to reduce the cost of bureaucracy, to reduce the cost of paperwork. We asked in conference, What about the paperwork? What about the bureaucracy? There was stony silence. "We do not think it is going to be that big of a problem." We hear that a lot when somebody is proposing a new regulation. "It is not going to be that big of a problem." The answer is they have not really thought it through. They are trying to restrict the activities of organizations that have come to Washington and are asking that the budget be shaped a certain

way, that the appropriations be shaped. They do not like these requests.

Mr. HATFIELD. Mr. President, will the Senator yield for a question?

Mr. KERREY. I am pleased to yield.

Mr. HATFIELD. The Senator knows where my position is on this particular issue.

I would like to merely say that the managers of the bill have not been able to make their opening statements at this point because a Democratic Senator arrived on the floor after it was laid down and asked for permission to go back to morning business to make 10 or 15 minutes of remarks. We had no objection to that to accommodate the Democratic Senator, and expected then to open up the issue by our opening statements—Senator BYRD and myself.

I want to say to the Senator that part of that delay also has been in trying to work out some kind of an agreement on this particular point.

I wonder if the Senator would yield in order to return to that procedure.

Mr. KERREY. Absolutely. Mr. President, I came to the floor with no idea precisely when it was that the distinguished chairman and ranking member would be coming down here to take the bill up. It was my intention to talk just briefly about this particular provision and, whenever they got here, to yield.

At this point, I yield the floor.

Mr. HATFIELD. I thank the Senator.

Mr. President, I would ask for a quorum call for a few moments.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. HATFIELD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HATFIELD. Mr. President, the Senate now has under consideration House Joint Resolution 115, the second continuing resolution for fiscal year 1996. The current continuing resolution, Public Law 104-31, expires on Monday, November 13, and only 2 of our 13 appropriations bills have been signed into law, so another measure is necessary to provide executive branch authority to obligate funds for Government operations.

This continuing resolution has four titles. Title I is the operative part, providing that the rate of operations for activities funded in the 11 appropriations bills not yet signed into law shall be the lowest of the rates provided by the House-passed bill, the Senate-passed bill, or the current rate. Specific provision is made for programs that might be zeroed out under that formulation; namely, such programs may be maintained at a rate of 60 percent of the current rate. The existing CR pegs this minimal level at not to exceed 90 percent of the current rate.

In addition, this CR carries a provision, section 112, providing that spending rates may be adjusted to avoid any

reduction in force, or RIF, at any of the affected agencies.

The expiration of this measure is Friday, December 1.

Title II of this measure is an internal housekeeping matter providing for hand enrollment of the reconciliation bill, the debt limit bill, and continuing resolutions. This provision will expedite transmittal of this legislation to the President once passed by both Houses.

Title III is the so-called Istook amendment. I expect there will be a motion to strike this title. I will vote for that motion, and I hope it will succeed.

Title IV carries two provisions within the jurisdiction of the Finance Committee. Both pertain to the Medicare Program.

Mr. President, it should be noted that this joint resolution has been brought to the floor without referral to the Appropriations Committee. I have no objection to doing so, for I recognize the need to save time. But I want to emphasize that this is not a product of the Appropriations Committee, and thus it does not necessarily represent the views of a majority of our committee. In fact, I do not believe our committee would have reported this measure in this form, and I doubt that the members of the committee will support this measure in all of its particulars.

I will now yield the floor to Senator BYRD to make whatever opening remarks he may wish to make, and then we can proceed with any amendments or motions that may be offered.

I wish to indicate again the pleasure and the efficiency that has been developed by the working relationship with Senator BYRD as the former chairman of our committee which I have enjoyed over a number of years, and now that I am chairman and he is the ranking member, reversed to what it was in previous years, I want to say that it has continued to be an unassailable partnership from which I have derived great pleasure.

I also wish once again to thank Senator KERREY of Nebraska for permitting us to return to this procedure at this time to introduce the resolution and to also assure the Senator, as he is now conversing with the Senator from Wyoming, we are attempting to work out some kind of a resolution of the title relating to the Istook amendment.

Mr. BYRD addressed the Chair.

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. BYRD. Mr. President, I thank the distinguished chairman for his observations with respect to the working relationship that has existed from the beginning between the chairman, Mr. HATFIELD, and myself. He has accorded to me a great deal of courtesy and understanding, and I am proud that I share the responsibility with him of managing this measure as well as various and sundry appropriations bills that we have brought to the floor from

time to time. I enjoy that relationship with the chairman, and I cherish it.

Mr. President, as Senators are aware, the Federal Government has been operating under a continuing resolution—Public Law 104-31—since the beginning of the new fiscal year, October 1st. That continuing resolution was necessary to give Congress more time to complete its annual appropriations process on the fiscal year 1996 appropriations bills. While that measure continued essential functions of government at rates below levels allowed in the 1996 budget resolution, it nevertheless did not prejudice final budget decisions for fiscal year 1996, nor did it attempt to enact new policies into law. Instead, it was a product upon which the President and Congress agreed to continue necessary functions of the government through November 13.

It had been hoped that this six-week extension beyond the beginning of fiscal year 1996 would be sufficient to enable Congress and the President to enact most, if not all, of the 13 fiscal year 1996 appropriations bills. But, unfortunately, that has not been the case.

To date, the President has signed only two appropriations bills into law—Military Construction and Agriculture. Two others—the Energy and Water Development and Transportation appropriations bills—have been sent to the President and his signature is expected. In addition, the legislative branch appropriations bill, which the President unfortunately—and I think unwisely—vetoed, has been adopted a second time by both Houses of Congress and is ready for submission to the President for his signature, which I hope that he will put on the dotted line this time.

I have never been able to understand the curious logic that went into his veto of the legislative appropriations bill. The Constitution creates this branch, the legislative branch. It is the branch closest to the people, and we have the responsibility to fund the operations of the branch. There is no question but that the bill which was sent had been reduced in the amounts, so it was not a question of the amounts being out of line. It was just some kind of false logic on the part of those down at the White House who have, I suppose, advised the President to veto that bill. He did not garner any kudos, as far as this Senator is concerned, or any credits when he vetoed that bill. The mere fact that it was the first to reach his desk somehow must have resulted in a pique of someone down there, but it was not sent down first by calculation or design. It just turned out that way.

So I think it was silly for him to veto that bill, and I told that to the people at the White House when they called me to ask me about it. I said it was faulty logic and it could come back to create problems for you. I hope we will at this time pass that stage of sophomore development.

All eight of the remaining appropriation bills are in various stages of com-

pletion. These bills are: Defense, Interior, Foreign Operations, Treasury-Postal, Commerce-State-Justice, VA-HUD, Labor-HHS, and District of Columbia.

As a result of these difficulties, it has become necessary to enact a second continuing resolution. Unfortunately, the second continuing resolution now before the Senate, H.J. Res. 115, is not one which I can support. It not only contains unnecessarily deep funding cuts in programs for education—and I have got to say this about education while I am on the subject; I cannot understand why we continue to spend more and more moneys for education, and turn out a lower and lower performance with respect to scholastic results that come out of the schools; I just cannot understand that—on infrastructure and other critical areas, but it also contains a number of controversial legislative provisions that have no business being included in a continuing resolution.

One such controversial provision—the so-called “Istook amendment”—is addressed in the President’s Statement of Administration Policy, dated November 8, 1995. That Statement of Administration Policy contains the following language:

One provision of H.J. Res. 115, the so-called “Istook amendment,” would launch a broad attack on the right to free speech of such organizations as the Red Cross and the Girl Scouts; it would limit their ability, and that of other organizations that receive Federal funds, to participate in administrative or judicial proceedings. The Justice Department believes that the provision does not pass constitutional muster because it imposes unconstitutional penalties for the exercise of free speech rights. Among other things, the provision would impose restrictions and penalties on organizations that were involved in advocacy during the year prior to passage of the legislation—thereby violating the fundamental principle that prevents the government from retaliating retroactively against persons or organizations that have exercised free speech rights.

Another provision in this resolution would raise the contribution that beneficiaries must pay for Medicare Part B premiums to \$53.50, effective in January of 1996. Without this change, those premiums would be approximately \$10 less per month per person.

For these reasons, the President has indicated that he will veto H.J. Res. 115 if presented to him in its present form.

I support the President’s position regarding H.J. Res. 115, as it is now drafted. I am hopeful that the Senate will adopt sufficient modifications to H.J. Res. 115 and that the House will concur in those modifications, so that the President can be presented with a measure that he can sign prior to the shutdown of the government at midnight on Monday, November 13. If such a shutdown occurs, it will not be the fault—I suppose it will be the fault of everyone to some extent. It will be due to the inability of this Congress to complete its work in a timely manner.

There are only two responsibilities that are absolutely essential for this

session of Congress. Those are, one, the enactment of annual appropriations for the Federal Government for fiscal year 1996 and the raising of the debt limit to a level sufficient to enable the government to meet its financial obligations without default. Throughout the past year, we have heard the Republican majority of both Houses of Congress playing up their so-called “Contract With America” and touting all of the benefits that will be forthcoming to the American people as a result of that so-called “contract.”

As I have done on previous occasions, my contract with America I keep right here in my shirt pocket. And it cost 19 cents some years ago when I first purchased it. And it is entitled, “The Constitution of the United States.” That is my contract with America. And I do not swear to any other contract with America.

I am one that ran also last year, and I did not receive any mandate from the voters of West Virginia. Not one voter ever asked me about the so-called Contract With America. I was never asked to sign it or support it. I do not swear to it. I never expect to bow down to it. I only bow down to the Bible, No. 1, and the Constitution of the United States, No. 2, in that order.

If one looks at what they do and not what they say, the record speaks for itself. Despite all of the rhetoric to the contrary, this is one of the poorest performances that I can recall as far as the timely enactment of appropriations bills is concerned.

I hasten to say that I do not fault the chairman of the committee, the distinguished Senator from Oregon [Mr. HATFIELD], for this delay. And I do not fault the other members of the Appropriations Committee for the delay. The major cause is the fact that a number of these appropriation bills include controversial legislative riders, such as those that are contained in the pending measure.

Therefore, it is incumbent upon Congress to enact a clean continuing resolution and a clean debt limit increase without adding unnecessary legislative provisions to either. If we are unable to do so, the blame will be properly at our doorstep for the shutdown of the operations of the Federal Government on Tuesday, November 14th, and the default on the payment of its obligations shortly thereafter.

I urge my colleagues to support amendments which I understand will be offered to this resolution which, if adopted, I believe will enhance chances that H.J. Res. 115 will be signed into law. If such amendments are not made by the Senate and agreed to by the House, then I feel sure that H.J. Res. 115 stands no chance whatsoever of becoming law.

Mr. President, I yield the floor.

Mr. CAMPBELL addressed the Chair.

The PRESIDING OFFICER. The Senator from Colorado.

Mr. CAMPBELL. Thank you, Mr. President.

AMENDMENT NO. 3045

(Purpose: To strike title III which restricts the use of private funds for political advocacy activities by nonprofit organizations.)

Mr. CAMPBELL. Mr. President, I rise today to express my opposition to what is now title III of the continuing resolution. I might say that I did vote for the original Senate language. I opposed this provision as part of the Treasury-Postal conference committee. And I will tell you why. This measure, if adopted, would effectively eliminate the ability of nonprofits throughout this Nation to express their political views to their elected representatives at every level—at the Federal level, State level, local level, and tribal level. This legislation, I think, slams the door of Congress in the face of hundreds of thousands of grassroots organizations.

In the Senate Treasury-Postal appropriations bill, this body adopted an amendment to keep large, well-financed nonprofit organizations from abusing the lobbying regulations. Certainly they should not use taxpayers' money by the millions simply to lobby to get more taxpayers' money. But the House-passed version, on the other hand, goes much further and muzzles grassroots organizations and puts roadblocks in the way of legitimate advocacy efforts.

It would affect, as I understand it, churches, Boy Scouts, tribes, art groups, chambers of commerce, water conservancy districts, and hundreds of other very diverse nonprofit groups. In effect, it would muzzle the free speech of millions of people. These groups are the same groups that as elected officials we are supposed to be here to defend and represent. I see a clear difference, as many of my colleagues do, between the high-powered, well-financed professional lobbying firms, who hire well-financed professional lobbyists, and the grassroots-based community organizations. I think my colleagues see the difference too.

For the last couple of months the Senate has focused its efforts on getting Government out of people's lives. Well, this provision would do just the opposite because it would tell the nonprofits how they could spend their private moneys. By law, these organizations cannot spend Government funds for lobbying activities, which I think makes sense.

What does not make any sense to me is that we are stepping in and legislating how nonprofits can spend their privately raised funds on advocacy efforts. It is wrong for us to do that. That is why I will offer a motion to strike title III. This provision is bad for our communities because it treats State and local organizations and their national affiliates as one. This provision is bad because the definition of advocacy is too broad. This provision is bad because it hamstring the many or-

ganizations that, with reduced Government, we will have to rely on more heavily than ever to deliver services to our communities. It also is bad because this provision casts a net so wide it will muzzle political advocacy groups in our towns, our communities, in our States.

In short, it is bad language. The administration has already threatened to veto it, as the Chair knows. I think it is important to send a message to our constituents that we will not allow them to be silenced. We want Government out of people's lives, but we do not want to keep people out of Government.

With that, Mr. President, I would move to strike title III of the continuing resolution, and send an amendment to the desk, and ask for the yeas and nays after the motion.

I yield the floor.

The PRESIDING OFFICER. Is there a sufficient second?

Mr. CAMPBELL. I suggest the absence of a quorum, Mr. President.

The PRESIDING OFFICER. Is the Senator sending an amendment to the desk?

Mr. CAMPBELL. Yes.

The PRESIDING OFFICER. Then the clerk will report.

The legislative clerk read as follows:

The Senator from Colorado [Mr. CAMPBELL], for himself, Mr. KERREY, Mr. LEVIN, Mr. LIEBERMAN, Ms. MIKULSKI, and Mr. GLENN, proposes an amendment numbered 3045.

Strike Title III of the resolution.

The PRESIDING OFFICER. Did the Senator request the yeas and nays on this amendment?

Mr. CAMPBELL. I request the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. COHEN. Mr. President, the Istook amendment before the Senate today presents a difficult issue because the principles fueling both sides of the debate have some merit.

On the one hand, organizations that are subsidized by the Federal Government should not be allowed to lobby the Government or engage in unlimited grassroots political activism. When highly subsidized organizations are actively participating in political activities, the public perception is that taxpayer funds are being used for partisan purposes.

This perception if formed even if there are safeguards in place to prohibit the use of Federal funds for lobbying or political campaigning.

On the other hand, our political process would suffer if nonprofit groups were restrained from engaging in public debate. These organizations represent millions of Americans who do not have the time or ability to monitor day-to-day events in Congress or their State legislatures, but want their interests to be represented on issues ranging from environmental protection

to the right to bear arms. To place severe restrictions on the ability of these organizations to analyze legislation, testify at public hearings, comment on pending regulations, and advocate their views in the political arena would not only deprive policymakers of valuable expertise, but would leave many Americans without an effective voice in the political process.

In my view, our Tax Code does a fairly good job of balancing these competing principles. Section 501(c)(3) of the Code allows taxpayers to deduct contributions to charitable organizations. Since virtually all the revenue of these 501(c)(3) organizations are federally subsidized through the Tax Code modest limitations are placed on the organizations' lobbying and grassroots activities. However, in recognition of the important role that charitable organizations play in our society, they are allowed to comment on regulations that affect them, join litigation that implicates their interests, and communicate with their members on political issues without limitation.

The Simpson-Craig amendment to the Treasury-Postal appropriations bill made an important modification to the Tax Code. The amendment applies to tax-exempt nonprofit corporations, which, under section 501(c)(4) of the Tax Code, are allowed to lobby without limitation. Under the amendment, 501(c)(4) organizations with annual revenues in excess of \$10 million would no longer be permitted to both lobby without limitation and receive Federal grants. I support this change in the law because I do not believe that large organizations engaged in substantial lobbying activities should be eligible to receive taxpayer funds. If an organization wants to apply for Federal funding, it should be required to submit to the restrictions on lobbying activities contained in section 501(c)(3) of the Code.

The Istook amendment, however, would have a much more sweeping impact on nonprofit organizations. It would affect every organization that receives Federal grant money, as well as, organizations that believe they may wish to apply for grants in the future. In addition, the Istook amendment places limits on a broad category of activities that have never been regulated by the Federal Government before such as filing an amicus brief, writing a letter to the editor, or providing office space to an affiliate organization.

Most significant, the Istook amendment would impose a byzantine set of reporting requirements on nonprofit corporations. Each organization would be required to establish separate accounts to keep track of how much money it spends on lobbying and political advocacy, since the amendment imposes different monetary thresholds on each category of activity. They would also be required to determine whether any corporation or organization they do business with spends more than